

**SCOTT PRUITT'S RESPONSES TO QUESTIONS FOR THE RECORD
ON ENVIRONMENTAL JUSTICE, TRIBAL AND CIVIL RIGHTS ISSUES
January 18, 2017**

SENATOR BOOKER:

As the former Mayor of Newark, I have seen how low-income and minority communities living in close proximity to the port of Newark are exposed to high levels of air pollution resulting in serious health problems. Across the nation 13 million people—3.5 million of whom are children—live near major marine ports or rail yards. What is your plan to address the pressing environmental justice concerns regarding poor air quality near major seaports and other congested nodes in our nation's freight network? I have been a champion of the bipartisan Diesel Emissions Reduction Act (DERA) Program that helps replace diesel engines and helps make major sea ports and inland transportation hubs cleaner and more efficient. If confirmed can you commit to supporting the DERA program?

As I committed to you during the meeting in your office, I understand there are wide ranging variety of environmental justice issues affecting urban and rural America. In fact, as you will recall, I've committed to work with your office and visit impacted areas with you. I am also aware that the Diesel Emissions Reduction Act Program has received bipartisan support from members of the Environment and Public Works Committee. If confirmed, I would like to work with members of Congress to best direct resources to bipartisan initiatives.

In 2016, troubling reports of lead contamination in school drinking water in New Jersey and other areas of the country made clear the urgent need to test school drinking water and remediate school drinking water infrastructure that is contaminating the water our children drink.

a. What is your plan to prioritize and expedite the EPA's efforts to eliminate lead contamination in school drinking water?

If confirmed, I will fully carry out EPA's authorities, including its authorities under the Safe Drinking Water Act. I note that in the WIIN Act, Congress amended the Safe Drinking Water Act to authorize funding for voluntary school lead testing. If confirmed and if funding is provided, I will carry out that program.

How do you define "environmental justice"? Do you think it's a serious issue?

I am familiar with the concept of environmental justice. As I testified, the Administrator plays an important role regarding environmental justice. I agree that it is important that all Americans be treated equally under the law, including the environmental laws.

Decades of peer-reviewed academic and government research demonstrate that low-income communities and communities of color disproportionately experience environmental burdens compared to other populations in the United States. Do you agree with this conclusion? If not, why?

As I testified at the hearing, I am familiar with the concept of environmental justice and believe the Administrator plays an important role in this regard. I agree that it is important that all Americans be treated equally under the law, including the environmental laws.

What do you believe are the legal obligations of EPA to ensure that recipients of EPA funds comply with Title VI of the Civil Rights Act of 1964?

The obligations of recipients of federal funds are defined by the statutes and regulations to which you refer. Those statutes and regulations speak for themselves.

There are currently hundreds of unresolved Title VI civil rights complaints before EPA. Recent reports from EPA's OIG and independent organizations have documented EPA's long-standing failure to enforce Title VI. If confirmed, what will you do as EPA Administrator to address this?

If confirmed, I would expect to be briefed by staff and review any recommendations by the Office of Inspector General before taking action on this issue.

Indigenous communities are consistently targeted for energy extraction, nuclear waste, uranium mining and/or oil and natural gas pipelines. How will you address this moving forward?

If confirmed, I will faithfully execute all laws enacted by Congress relating to protection of indigenous communities.

Children living in communities of color and low-income communities have the highest blood lead levels of all children in the United States, and even some developing countries. As Administrator, what steps would you take to address this?

I am concerned about high-blood levels in children and children's health generally. As I testified, the Administrator has a significant role regarding environmental issues. If confirmed, I would expect to be briefed to learn about EPA's legal authorities and ongoing programs and outstanding recommendations from the Inspector General, if any, concerning this issue before taking action.

As Administrator will you continue to convene and implement the advice and recommendations of the National Environmental Justice Advisory Council, a federal advisory committee to EPA since 1993?

As I testified, the Administrator plays an important role regarding environmental justice. I am not personally familiar with the legal authorities or activities concerning this advisory committee but I would expect, if confirmed, to be briefed by staff about ongoing programs and activities before taking any action. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress.

As Administrator, will you work to have of EPA's EJ 2020 Plan fully implemented?

As I testified, the Administrator plays an important role regarding environmental justice. I am personally unfamiliar with the details of current initiatives regarding environmental justice referenced in the question, but I would expect, if confirmed, to be briefed by staff

about ongoing programs and activities before taking any action.

Do you intend to meet minority community members and leaders who have concerns about an environmental or health issue within your EPA jurisdiction?

Yes, if confirmed.

Public participation is the cornerstone of a healthy democracy and a basic component of good US policy development and enforcement. What are your plans to maximize inclusion and participation in decision-making processes by historically marginalized communities of color?

As I testified, the Administrator plays an important role regarding environmental justice. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress, including the Civil Rights Act.

If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans.

Illegal solid waste dumping sites where hundreds of thousands of pounds of trash and waste tires harbor disease-carrying vectors and pests such as mosquitoes, which transmit life threatening diseases like dengue, west Nile and zika viruses can be found all over the United States. These dumping sites disproportionately affect low income and minority communities. What will you do to address this health threat to these communities?

I understand the Resource Conservation and Recovery Act prohibits open dumping, and under this law states have primary responsibility to regulate solid waste disposal. If confirmed, I would expect to be briefed by staff and to hear the views of states and other stakeholders before taking any action consistent with EPA's legal authorities.

Monitoring of our coastal waters is critical to ensure the health and safety of its swimmers and bathers. Many coastal communities, especially low-income and minority communities have limited free recreational opportunities other than spending the day at the beach. As EPA administrator will you commit to continuing EPA's BEACHES program, which provides funding for state water quality monitoring programs that ensure healthy and safe recreation?

I am not personally familiar with the BEACHES program, but I would expect, if confirmed, to be briefed by staff about the program. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, including those authorizing the BEACHES program, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress.

A 2014 study by scientists at Lawrence National Laboratory at Berkeley reported that an estimated 10 % of chemicals used in fracking fluid are known to be toxic to humans and aquatic life. Fracking practices commonly are conducted in fringe low-income and working class communities. Since these toxics are known to leach into waterways how will you ensure this is prevented?

As was affirmed by Congress in drafting the Lautenberg Act, hazard is only one

characteristic of risk and simply stating a chemical substance has toxicity does not mean there is exposure. EPA is tasked with carrying out laws as directed by Congress and if I am confirmed, I will use the authorities vested in me to protect drinking water under the Safe Drinking Water Act.

SENATOR CARDIN:

Do you accept that EPA, state, local and tribal agencies work together to ensure compliance with environmental laws passed by Congress, state legislatures and tribal governments?

I agree it is essential for the federal government, state governments, and tribal governments to work together to provide the environmental protection that our laws demand and that the American people deserve. As I explained in my testimony to the Committee, I strongly support cooperative federalism. If confirmed, I will make every effort to partner with the EPA's counterparts in state, local, and tribal governments to further these goals.

Given the President-elect's concerns about EPA's slow and inadequate response to lead in drinking water problems and the lack of adequate testing, what specifically would you do to prevent a Flint-like disaster from happening elsewhere?

If confirmed, I will focus EPA's resources and attention on its core missions, including ensuring safe drinking water.

Would you commit to undertaking stronger EPA oversight and enforcement of drinking water rules, such as stronger enforcement of the lead and copper rule that wasn't enforced in Flint, MI?

Yes.

What specific lessons did you draw from the Flint, MI tragedy, regarding EPA's proper role in overseeing the States' administration of delegated federal programs?

I believe that EPA staff should be encouraged to notify their managers when they identify issues and managers must take those issues seriously when brought to their attention. I agree with the assessments of others that the Flint tragedy was a failure at every level of government, but I am particularly disturbed that EPA did not take action until long after they became aware of the elevated lead levels in Flint drinking water.

What are your views on when EPA should step in to take enforcement or emergency action where a state is authorized to administer a program under one of the federal environmental laws but is failing its duty to protect the public?

If confirmed, I will follow the process outlined in section 1414 of the Safe Drinking Water Act, as recently amended in section 2106 of the WIIN Act, to notify persons of elevated lead levels in their drinking water and will carry out the recommendations of the EPA Inspector General in his October 2016 Management Alert to update the guidance on Safe Drinking Water Act emergency authority and require training on the use of that authority.

Did EPA do an adequate job in the instance of the lead crisis in Flint, MI? If not, what specifically would you do differently?

No. If confirmed and faced with a similar situation, I would inform the state that EPA will take action if they fail to do so, and use EPA's emergency authority if the state fails to act.

How specifically would you strengthen EPA's lead and copper rule for drinking water to ensure, as Mr. Trump suggested, that water is adequately tested and treated before children are exposed to lead?

It would be inappropriate for me to prejudge the outcome of a matter that may come before me if confirmed as Administrator. If confirmed I would request a full briefing by EPA staff on potential revisions consistent with EPA legal authorities.

An independent advisory group of experts including state regulators and water industry representatives recommended to EPA that all old lead service lines that pump water into homes from water mains should be replaced. The water utility trade associations support this. Do you support that recommendation? In your view, what would be the best way to pay for these replacements—Congressional Appropriations, issuance of debt by cities and states, a combination, or other?

Please explain.

It is my understanding that, if properly implemented, corrosion control treatment of water protects public health from exposure to lead from lead service lines. EPA's highest priority should be to ensure that this treatment is being properly employed. Replacement of lead service lines is a long term goal that municipalities should incorporate into their capital improvement plans, which are generally implemented through state and local funds. Federal assistance through the Drinking Water State Revolving Funds and the new WIFIA program can provide additional assistance.

Lead has no safe level of human exposure, particularly for children. What actions will you take to require lead to be removed from children's environment to reduce their exposure to lead in air, water, soil, and paint?

If confirmed, I will faithfully carry out the authorities granted to EPA by Congress to reduce exposure to lead.

In March 2016 it was reported that 19 drinking water systems in Oklahoma had elevated lead levels. Of the 100 water systems with the highest self-reported lead levels between 2013 and 2015, seven are located in Oklahoma. One exceeded the federal action level by 1,175 parts per billion - many times greater than the amount of lead needed to cause the death of a fetus or spontaneous abortion, or permanent severe developmental problems. As Oklahoma A.G., what specific actions did your office take to protect children against lead poisoning?

The Oklahoma Department of Environmental Quality and the Oklahoma Water Resources Board have primary responsibility for implementing and enforcing environmental laws in Oklahoma. Questions relating to actions taken by the State of

Oklahoma with regard to lead in water systems should thus be directed to those environmental regulators.

How will you ensure that required evaluation of state drinking water primacy programs is conducted and how will you use EPA authority and resources to help states carry out their Safe Drinking Water Act primacy responsibilities?

If confirmed, I will focus on EPA's core missions, including oversight of state implementation of the Safe Drinking Water Act.

Will you direct EPA to continue and follow up on findings from 2016 increased oversight of state implementation of the Safe Drinking Water Act Lead and Copper Rule?

Yes.

What are your expectations for the 2017 Proposed Revisions to the Safe Drinking Water Act Lead and Copper Rule?

It is my understanding that EPA expects to issue that proposed rule in 2017.

SENATOR CARPER

Mr. Pruitt, environmental justice organizations have noted that 70 percent of coal ash dumps are located in low-income, disadvantaged communities. Do you agree that these communities deserve to know if coal ash ponds are leaking toxic substances into their drinking water supplies? Do you agree that these citizens have a right to expect that their drinking water be free of pollution from coal ash impoundments?

I am not familiar with the reports referenced in the question. As my testimony indicates, if confirmed as Administrator, I will prioritize public participation and transparency. I believe all Americans should be treated equally under the law.

Do you believe that federal agencies like the EPA have an obligation to consult Native American tribes when actions by the agencies could impact tribal sovereignty or the tribal trust relationship?

Yes, I believe that consultation is a sound practice that should occur whenever possible.

Indigenous communities are consistently targeted for energy extraction, nuclear waste, uranium mining and/or oil and natural gas pipelines. How will you address this moving forward?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing obligations on me in this regard. Whenever possible, I will consult with Indian Tribes prior to taking actions that may affect their sovereign interests.

As Administrator, what steps will you take to ensure that EPA and other federal agencies are complying with Executive Order 12989 on Environmental Justice?

I am not familiar with what steps EPA has or has not taken undertaken to implement this Executive Order. If confirmed, I will work to ensure that EPA complies with all applicable

Executive Orders.

In January 2015, EPA issued its final rule under the Resource Conservation and Recovery Act defining what is a solid waste for purposes of ensuring that the recycling of hazardous materials does not increase the risk of harm to people or the environment, known as the "Definition of Solid Waste" or "DSW" rule. As an integral part of the rulemaking on the DSW rule, EPA conducted an environmental justice analysis of the rule's protectiveness for minority and low-income populations. EPA published its detailed environmental justice analysis report on the DSW Rule with the final rule. Will you ensure that EPA conduct detailed environmental justice analysis on all significant rules that may have adverse impacts on minority and low-income populations and publish such reports along with the final rules?

I am not familiar with the environmental justice analysis referenced in this question. If confirmed, I will work to ensure EPA conducts the required analysis to support its regulatory actions in accordance with applicable statutory requirements and Executive Orders.

As attorney general, what types of environmental justice cases have you pursued? Please provide a list of cases and outcomes. What is your view of EPA's mission in regard to environmental justice?

As discussed elsewhere in these responses, the Oklahoma Department of Environmental Quality is the state agency with primary responsibility for implementing and enforcing environmental laws in Oklahoma. As I testified, I believe the Administrator plays an important role regarding environmental justice. Attached is a list of environmental cases brought under my tenure.

SENATOR GILLIBRAND

Municipal landfills that are non-compliant with the Resource Conservation and Recovery Act (RCRA) have created public health and environmental problems on the island of Puerto Rico, contributing to water, ground and air contamination. How will you address non-compliant landfills in Puerto Rico?

I am not familiar with the details of this specific issues but, if confirmed as Administrator, I would expect to be briefed by staff about EPA's ongoing involvement and role at these sites. If confirmed, I expect to make cleanup of contaminated land one of my priorities. I also believe in the importance of hearing the views of all stakeholders and would welcome the opportunity to discuss this further.

I have been working with EPA Region 2 to address the significant environment and public health crisis in the Caño Martín Peña in San Juan, Puerto Rico. As we discussed during our meeting in my office, EPA must take aggressive action to work with the Army Corps of Engineers to clean up hazardous waste, which is threatening the lives of children and families, who do not have full representation in the Congress. Will you continue EPA's aggressive push to clean up the Caño?

As discussed, I am not familiar with the details of this specific matter but, if confirmed as Administrator, I would expect to be briefed by staff about EPA's ongoing involvement and role at this site. If confirmed, I expect to make cleanup of contaminated land one of my priorities.

If confirmed, will you visit San Juan and tour Caño Martin Peña during your first year as Administrator?

As we discussed in your office, I would be pleased to accompany you on this trip at a mutually convenient time if I am confirmed as Administrator.

How will you address the disproportionate effect of environmental contamination on low-income communities of color?

If confirmed, I will expect to be briefed by staff about EPA's programs and statutory authorities in this area.

SENATOR MARKEY

The EPA is tasked with implemented the Safe Drinking Water Act (SDWA), and ensuring that the drinking water supply for many Americans is safe. Given the Flint, Michigan drinking water crisis, many Americans that took clean water for granted are now being faced with questions about a basic necessity.

The Water Infrastructure Improvement for the Nation (WIIN) Act of 2016, or WIIN Act, passed Congress was signed by the President, and became public law on December 12, 2016. Will you commit to, as expedient as practicable, implementing the changes to the Safe Drinking Water Act?

The human-caused drinking water crisis in Flint, Michigan has highlighted the widespread concern of lead in drinking water pipes across the nation. Additionally, nearly 4 million Americans may be unknowingly drinking unsafe water. Are you aware of how many public water systems in the United States have issues with lead in drinking water above safe levels?

If a public official knowingly exposes their community to dangerous levels of contaminants, such as lead, should that official be held accountable for such actions?

What do you think are acceptable punishments for such an action?

If confirmed as EPA Administrator, what will you do to ensure that communicates across America have safe drinking water that is not contaminated with lead?

If confirmed I will fully implement the changes to the Safe Drinking Water regulatory requirements made by the WIIN Act, including the changes to the notification requirements relating to lead levels in drinking water. If funding is provided, I will also implement the assistance programs authorized in that Act. I also will fully implement the existing authorities under the SDWA, including, as appropriate, EPA's authority to take emergency action. If confirmed I will seek a briefing from EPA staff on the number of public water systems that are not in compliance with the SDWA Lead and Copper Rule. I am unaware of EPA authorities to punish individuals other than to seek the resignation of responsible EPA officials, such as the resignation of the former Regional Administrator of EPA Region 5 who resigned after her failure to act upon information regarding the lead levels in the Flint water system became public.0000

Racial minorities and low-income communities are disproportionately affected by environmental pollution, siting of waste disposal facilities, and other industrial pollution causing activities. In many instances, the combination of poverty and race as well as lax enforcement and oversight of industrial activities results in worsened health outcomes by

these communities.

- How will you address environmental justice and equity for minority and poor communities through EPA programs?
- What will you do to improve health equity as administrator of the EPA?
- What are your plans on reducing toxic pollution and disproportional burden of pollutants in communities of color?
- What will you do to increase enforcement and oversight in communities that are bearing the burden of environmental hazards?
- In your confirmation hearing, you committed to making environmental justice a top priority. If confirmed, will you commit to dedicating funding to assist minority and poor communities with resources and technical assistance to better engage with the EPA and industry about pollution activities and concerns occurring in their communities?
- What will you do to improve the EPA's office of Civil Rights to ensure that the EPA is in compliance with the Civil Rights Act of 1964?
- Will you uphold and make a top priority throughout the agency's work, Executive order 12898, which requires federal agencies to make "achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."
- Do you vow to ensure that environmental justice activities throughout the agency remains focused on poor and minority communities?
- EPA recently developed the agency's EJ2020 action Agenda to better deliver on its historical promises of reducing disparities in environmental protection. Will you utilize and uphold this guidance and procedures outlined in this document throughout the work of the agency? Please explain.

As I testified, the Administrator plays an important role regarding environmental justice. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering, in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress, including the Civil Rights Act. I am personally unfamiliar with the operations of EPA's Office of Civil Rights and details of current indicatives regarding environmental justice referenced in the question, but I would expect, if confirmed, I would be briefed by staff about ongoing programs and activities before taking any action.

SENATOR MERKLEY:

EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." Would you as EPA administrator advance the goal of environmental justice and if so, how?

If confirmed, I would work to faithfully execute the laws EPA is responsible for administering in order to protect human health and the environment for all Americans. As I testified, the Administrator plays an important role in regarding environmental justice.

Exposure to air toxicity, water pollution, lead, and hazardous waste sites results in

disproportionate levels of disease, disability, and mortality amongst communities of color. As Administrator, what will you do to protect America's most vulnerable and underrepresented communities from environmental hazards and reduce the burden of toxicity shouldered by these communities?

As I testified, the Administrator plays an important role in regarding environmental justice. If confirmed, I would work to faithfully execute the laws EPA is responsible for administering in order to protect human health and the environment for all Americans. If confirmed, I would expect EPA to operate in an open and transparent manner, consider the views of stakeholders as appropriate, act based on sound science, and follow the laws as established by Congress

President-Elect Trump has stated that the drinking water crisis in Flint, Michigan, would never have happened if he was president. If appointed, what measures do you plan to take to protect drinking water across the country and particularly for the most vulnerable populations?

If confirmed, I will return EPA's focus to carrying out its core missions, including, as appropriate, use of EPA's emergency order authority under the Safe Drinking Water Act.

The EPA is the front line agency serving or assisting Indian Country with environmental protection and recognition of treaty rights. As EPA Administrator, would the you commit to the protection of tribal treaty rights in agency decision making processes in situations where rights may be affected by EPA actions including federal approval of:

- state water quality standards (CWA)
- state 401 water quality certifications
- state distribution and use of pesticides (FIFRA)
- oil spill program countermeasures (SPCC)?

If confirmed, I will commit to ensuring that the United States meets all treaty obligations that it has pursuant to treaties with Indian Tribes.

Will you support current efforts to establish federal baseline water quality standards for Indian Reservations that do not currently have Clean Water Act standards in place? Please explain why or why not. An advanced notice of proposed rulemaking on this initiative was published in the Federal Register on September 29, 2016.

Because an advance notice of proposed rulemaking has been published, this matter will come before me for decision if I am confirmed as Administrator. Thus, I will not prejudge the outcome, but rather will commit to fairly evaluating the matter and reaching a sound decision.

The 2014 U.S. National Climate Assessment concludes that climate change will impact every community in the United States, and that low-income communities and communities of color will be the hardest hit. These vulnerable communities will feel the impacts of climate change more severely due to lower quality housing, which is often less equipped to safely weather severe storms, severe heat, and freezing temperatures. How will you work to reduce climate change risks in low-income communities and communities of color?

I believe environmental justice for low-income and minority communities is an

important role of the EPA Administrator. If confirmed, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment for all of our nation's citizens.

SENATOR SANDERS:

How would a Trump/Pruitt EPA address growing environmental and economic justice issues associated with existing oil refineries and associated unconventional oil and gas infrastructure proposals?

As I stated at my confirmation hearing I believe addressing environmental justice in poor and minority communities is an important role of the EPA Administrator. If confirmed I intend to enforce laws under EPA jurisdiction with uniformity regardless of which industry a potential violation of law comes from.

As you may know, each federal agency, including EPA, has an important role in enforcing Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color and national origin by recipients of federal funds. This is an accountability law — before the law was passed, federal funds were subsidizing agencies and organizations, from schools to hospitals to other agencies of government that discriminated. The case that led to the passage of Title VI was *Simkins v. Moses Cone Memorial Hospital*, a 1963 case in which a circuit court finally, 9 years after *Brown v. Board*, struck down a provision of federal law that allowed federally subsidized hospitals to have separate wings for “whites” and “colored” people under a “separate but equal” provision of a federal law called the Hill Burton Act.

Are you familiar with Title VI?

Yes.

Are you familiar with the Moses Cone Memorial Hospital case?

Yes.

If confirmed, will you commit to enforcing Title VI and the regulations promulgated by EPA to enforce Title VI?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress that impose duties or grant authority to me as Administrator, including the Civil Rights Act.

Title VI (at 42 USC 2000d-1) specifically empowers “each federal department and agency” that distributes federal funds to effectuate Title VI and then authorizes each agency to issue rules, regulations and orders to implement the law. Thus, the authority and responsibility to enforce Title VI and to ensure that recipients of federal funds are not discriminating rests with each federal agency, including EPA. As you may know, federal enforcement is all the more important because affected communities can't go to court to enforce claims unless they can prove intentional discrimination under a case that arose out of Alabama — *Alexander v. Sandoval*, 532 U.S. 275 (2001).

Are you familiar with the text of Title VI, 42 USC 2000d, which prohibits discrimination on the basis of race, color or national origin?

Yes.

What is your vision for Title VI enforcement at EPA? What reforms need to be made? What concrete steps do you envision to strengthen civil rights enforcement at EPA?

If confirmed as Administrator, I will faithfully execute Title VI. I will expect my staff to evaluate any areas that might need reform, and I will take appropriate actions based on the recommendations made to me.

Are you familiar with the Supreme Court decision in *Alexander v. Sandoval* (2001)?
Yes.

To your knowledge, does the text of the law define or limit the meaning of "discrimination"?

I cannot answer this question without additional context as to what text of what law you refer to.

Are you familiar with regulations promulgated by EPA to implement this language, found at 40 CFR Part 7?

I cannot answer this question without additional context as to what you are referring to when you say "this language."

In your opinion, does this language further define what is meant by "discrimination"?

I cannot answer this question without additional context as to what you are referring to when you say "this language."

In fact, the regulations prohibit actions with an unjustified disparate impact. Do you agree?

The regulations speak for themselves.

Are you aware of criticism that EPA has historically done a "poor" job of enforcing Title VI and its regulations?

I am not.

If so, do you agree or disagree with criticisms that EPA has historically done a "poor" job of enforcing Title VI and its regulations?

Because I have not heard those criticisms, I cannot say whether I disagree or not.

Are you familiar with the Deloitte Report (2011), see <https://assets.documentcloud.org/documents/723416/epa-ocr-audit.pdf>, which documented problems with EPA's enforcement of Title VI? If so, what is your past experience with the Deloitte Report?

I am not familiar with the report you reference.

Were you aware that the Deloitte Report made the following findings:

- The Office has not adequately adjudicated Title VI complaints – those addressing

allegations of discrimination against communities of citizens affected to environmental rules promulgated by the EPA.

- OCR has not completed compliance checks of EPA grantees, in a timely or effective manner, to ensure that grantees are not engaging in discrimination in their work.

I am not familiar with the report you reference.

If so, what is your past experience with the findings?

I am not familiar with the findings.

In your opinion, what has the EPA already done to address these issues?

I do not know what EPA has or has not done to address any such issues.

Do you know whether these steps have been effective?

Because I am not aware of the steps taken--if any--I cannot judge their effectiveness.

In your opinion, what more could the EPA do to address these issues?

It would be inappropriate for me to prejudge an issue that may come before me for decision if I am confirmed as Administrator. If the issue comes before me, I will ensure that the issue is fully and fairly considered, as part of a transparent process that seeks input from all stakeholders.

If confirmed, will you commit to taking action to address these issues?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress and imposing upon EPA duties or powers.

Do you believe that recipients of federal funds — across this whole country — are making any decisions that are discriminatory?

I do not doubt that some recipients of federal funding engage in behaviors that violate federal anti-discrimination laws.

Under Title VI and its regulations, should recipients of federal funds review whether a decision has a disproportionate adverse impact to ensure that it is in compliance with civil rights law?

Recipients of federal funds should take all actions required by law to ensure that they are in compliance with federal civil rights laws.

Do you have plans for pre-award compliance reviews? When would any such plans go into effect? And post-award compliance reviews? What would such reviews involve?

If confirmed as Administrator, I will ensure that federal funds are awarded in compliance with federal law.

What is your understanding of the obligations of recipients under Title VI and EPA implementing regulations? Do you think those obligations are sufficient?

The obligations of recipients of federal funds are defined by the statutes and regulations to which you refer. Those statutes and regulations speak for themselves.

Energy burdens above six percent of a household's income are typically considered unaffordable, but low income households spend an average of 15 to 20 percent of their income on energy bills. Low income families are also more likely to live in older, inefficient housing. The Clean Power Plan provides incentives to states to invest in energy efficiency improvements in low income communities.

Are you concerned about the lack of access to energy efficient, affordable housing for low income families?

I am unfamiliar with EPA's role and statutory authorities as they relate to affordable housing. I am concerned about the impact regulations can have on the cost of energy for consumers.

As EPA Administrator, how would you help low income working families reduce their energy burdens and access energy-efficient affordable housing?

I am unfamiliar with EPA's role and statutory authorities as they relate to affordable housing.

Low-income rural and urban communities and people of color are disproportionately live near, are exposed to, and die from environmental risks/hazards. As of February 27, 2014, there were 1322 Superfund sites on the National Priorities List in the United States. Fifty-three additional sites have been proposed for entry on the list. Communities of color breathe in nearly 40 percent more polluted air than whites. Sixty-eight percent of African-Americans live within thirty miles of a coal-fired power plant, the zone of maximum exposure to pollutants that cause an array of ailments, from heart disease to birth defects. Half of all U.S. Latinos live in the country's most polluted cities. Hispanic children are twice as likely as non-Hispanic white children to die from asthma while, from 2012-2014, African American children had a death rate ten times that of non- Hispanic white children. African-American children are three times as likely to suffer an asthma attack.

As EPA Administrator, how would you ensure that vulnerable low-income communities and communities of color are not overburdened by the harmful impacts of pollution?

If confirmed, I expect to make the cleanup of contaminated land one of my priorities. I believe the nation's environmental laws apply to all Americans.

Would you say there is anything you will do, if confirmed, to help these Americans? Will you push to reduce smog and particulate matter that causes more asthma attacks and other lung problems? Or is that a matter for the states and not the EPA?

If confirmed, I will work to ensure human health is protected by implementing Clean Air Act provisions, such as the National Ambient Air Quality Standards for criteria pollutants, including for ground-level ozone and particulate matter, which prioritize protection of human health and welfare. I will also work to ensure all Americans are treated equally under the law in furtherance of EPA's mission to protect human health and the environment.

EPA has adopted many cost-effective safeguards in the past eight years that would significantly reduce the pollution that contributes to asthma attacks in children -- many of which you challenged as Attorney General of Oklahoma.

Can you explain how you will protect the interests of these and other children that suffer from asthma?

As I stated in my testimony to the committee, all legal positions that I took in my capacity as Attorney General for the State of Oklahoma were in the capacity of an advocate. If confirmed as Administrator, I will consider all matters presented to me with an open mind and will work to reach conclusions that are reflected in the administrative record of each matter and that comport with Congress's intent in enacting the Act.

Will you commit to working to further reduce pollution, including pollution that disproportionately burdens Hispanic and Environmental Justice communities?

If confirmed, I will work to ensure all Americans are treated equally under the law in furtherance of EPA's mission to protect human health and the environment.

Do you think the EPA has done enough to ensure that low-income communities near brownfields receive the same amount of attention as high-income communities? Will you give priority to the safety and health of our children and future generations over short-term current economic gains of few?

I do not know what EPA has or has not done on this issue. If confirmed as Administrator, I will work to ensure the brownfields program is operated in accordance with applicable legal requirements.

Do you intend to encourage tribes to develop their own enforcement regimes under approved programs, much as the states do? Or do you expect EPA itself to provide direct regulation and enforcement of federal environmental laws on Indian lands throughout the country?

If confirmed as Administrator, I would ensure that Indian lands were subject to adequate environmental regulation, whether that be through tribes utilizing regulatory powers as contemplated by Congress, or through direct regulation by the EPA.

Much of the nation's and the world's attention has been focused in recent months on the Dakota Access Pipeline, the construction of which crosses multiple states. Many pipelines on Indian lands are located entirely within a single state, however. Here EPA is not always the primary regulator, and state laws do not always apply. The health and environmental consequences of pipeline failures, however, can be enormous.

Will you commit to work with this Committee and other agencies to address the environmental and public health and safety issues associated with the operation of pipelines on Indian lands, including purely intrastate pipeline facilities?

If confirmed as Administrator, I would faithfully execute any obligations imposed on EPA by Congress to ensure the environmental soundness of pipelines on Indian lands.

Many of the nation's Superfund sites are on Indian lands. We are still dealing with clean-up issues from our uranium industry's legacy from the 1940s and 1950s.

The nation's largest open pit uranium mine--Jackpile Mine on Laguna--was only recently added to the Superfund list. The largest Superfund site in the country in your own state is largely on Indian lands: Tar Creek on Quapaw. We have not fully addressed abandoned uranium mill tailings piles and the failure of the Church Rock Dam that dumped irradiated mill tailings into Navajo lands and waters. More recently the failure of the dam below the Gold King Mine in Colorado turned the San Juan River on the Navajo Reservation red all the way to Utah. Today, and nearly every day, fugitive coal dust emissions from trains silt over spawning grounds of treaty-protected fisheries. Ocean-going dumping threatens subsistence lifeways throughout Alaska and the Pacific Northwest. Newer and more virulent strains of black lung disease are overwhelming public health facilities in mining communities. These are just a few examples of major environmental issues that impact disproportionately the poor and the underrepresented elements of our society, including Indian communities and tribal lands.

Can you assure us that under your leadership the EPA will address issues of environmental justice in Native American communities and offer a voice to those most affected by the environmental consequences of industrialization?

If confirmed as Administrator, I will faithfully execute all environmental laws enacted by Congress, and will do so in all communities, including Native American communities.

These questions extend to resources protected by treaties such as water rights and compacts, forestry, hunting and trapping, fishing, etc. Some treaties have language that doesn't apply any longer and needs to be updated. Other language needs updating to reflect cultural realities. For example, "hunting" rights do not include "trapping rights" in the letter of the treaty unless trapping is explicitly mentioned, even though the tribes did not differentiate between both.

Please describe the relationship between the federal government and American Indian Tribes as it relates to sovereignty the trust responsibility.

Pursuant to federal law, the federal government has a trust responsibility to American Indian Tribes.

What obligations do federal agencies have to formally consult with American Indian tribes? What about independent federal agencies?

The obligations of federal agencies--independent or otherwise--to formally consult with American Indian tribes are defined by federal law. If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring or authorizing formal consultation with American Indian tribes.

What procedures should the EPA follow regarding permitting of infrastructure projects that could potentially impact American Indian tribes and their citizens?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring that procedures be followed with regard to infrastructure projects that

could potentially impact American Indian tribes and their citizens

How do you interpret the United Nations Declaration on the Rights of Indigenous Peoples, especially as it relates to obligations of the federal government?

The federal government's obligations with respect to Indian tribes is defined by federal law.

Do you believe federal funding should be block granted to states to then disburse to tribes? Alternatively, should tribes receive their full and fair allocation of federal funding without being beholden to cumbersome state bureaucracy?

Federal funding should be disbursed to States and tribes in the manner directed by Congress.

What is the federal government's role in permitting extraction of mineral resources on federal Indian lands?

As trustee of federal Indian lands, the federal government's role is to act in the best interest of the tribes with regard to permitting extracting of mineral resources on those lands.

How will you promote economic development within Indian country?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress directing or authorizing me to promote economic development within Indian country.

How will you ensure the Bureau of Indian Education provides quality education to American Indian students?

The Bureau of Indian Education is overseen by the Department of the Interior, not EPA.

What is the role of the federal government to promote renewable energy development on American Indian lands?

The federal government's role in promoting renewable energy development on American Indian lands is determined by Congress. If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing upon EPA duties relating to promoting renewable energy development on American Indian lands.

What is the role of inter-agency cooperation to work across agencies on American Indian issues?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress imposing upon EPA duties relating to American Indian issues, and if faithful execution of those laws requires cooperation with other federal agencies, I will ensure that such cooperation occurs.

Will you work with the White House Inter-Agency Working Group on American Indian issues?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring or authorizing me to work with the White House Inter-Agency Working Group on American Indian issues.

Federal Indian law has long recognized that tribes maintain authority over Indian country to the exclusion of states. Oklahoma has 38 federally recognized Indian tribes and those tribes exert jurisdiction over their lands throughout the state. But as Oklahoma Attorney General, your office has never filed a brief in support of tribal jurisdiction. Instead, your office filed briefs in ODEQ v. EPA, the Dollar General case, and several other cases OPPOSING tribal jurisdiction.

How can you hope to serve as a protector of tribal lands when you have, over and over again, advocated to deny tribal governments the right to regulate and protect their OWN resources?

As Oklahoma Attorney General, my duty was to ensure that the State of Oklahoma's jurisdiction was fully realized, and sometimes took legal actions in pursuit of that duty. If confirmed as Administrator, I will faithfully execute all laws enacted by Congress directing or authorizing me serve as a protector of tribal lands.

Indian lands outside reservation boundaries. The EPA has, since at least 1984, recognized the federal government's trust responsibility, which is built upon the longstanding historical and legal relationship between the federal government and Indian tribes. The EPA has also acknowledged that treaties, as part of the supreme law of the land, have the same legal force as federal statutes and must be considered when making agency decisions.

How will you work to protect tribal treaty lands and resources that lie outside of reservation boundaries, and how will you help expand tribal authority over those lands and resources?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress directing or authorizing me to regulate tribal treaty lands and resources and directing or authorizing me to seek to expand tribal authority over those lands and resources.

Tribal communities, especially those in Alaska, have borne the brunt of the impacts of climate change. Several Native Alaskan villages have seen their entire way of life vanish as their homes have begun to erode away beneath their feet due to rising sea levels. Others have seen vital food supplies contaminated and sacred species of fish devastated by climate change.

How do you plan to protect native peoples from the effects of climate change?

If confirmed as EPA Administrator, I will adhere to the applicable statutory authorities to fulfill EPA's mission to protect human health and the environment for all of our nation's citizens.

There are established consultation processes set up for Indian Nations. Will you have "meaningful" talks with them? Will your Agency be transparent in all dealings with Tribal Nations? Will you be honest and fair?

If confirmed as Administrator, I will faithfully execute all laws enacted by Congress requiring consultation processes for Indian tribes. I will engage all who have business before the EPA--including Indian tribes--in meaningful, transparent, honest, and fair processes.

Will you commit to working to further reduce pollution, including pollution that disproportionately burdens Hispanic and Environmental Justice communities?

If confirmed, I will work to ensure all Americans are treated equally under the law in furtherance of EPA's mission to protect human health and the environment.

Do you think the EPA has done enough to ensure that low-income communities near brownfields receive the same amount of attention as high-income communities? Will you give priority to the safety and health of our children and future generations over short-term current economic gains of few?

I do not know what EPA has or has not done on this issue. If confirmed as Administrator, I will work to ensure the brownfields program is operated in accordance with applicable legal requirements.

SENATOR WHITEHOUSE

The EPA's Office of Civil Rights has a long history of failing to comply with the Civil Rights Act of 1964. To date, the office has never found a violation of Title VI, which prohibits recipients of federal funding from acting in discriminatory ways. It has also allowed complaints to linger for years without a response. What will you do to ensure compliance by the EPA with the Civil Rights Act and to improve the track record of the Office of Civil Rights?

If confirmed as Administrator, I would expect to be briefed by staff and review any recommendations by the Office of Inspector General before taking action on this issue.